

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
August 4, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a regular meeting in Room 211 of the Eddy County Administration Complex on August 4, 2009 at 8:30 a.m. Volpato called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation. Sartin announced Derrick would not be at today's meeting, and Volpato would act as Chairman.

Present:

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| GUY LUTMAN | COMMISSIONER DISTRICT 3 |
| ROXANNE LARA | COMMISSIONER DISTRICT 5 |
| TONY HERNANDEZ | COMMISSIONER DISTRICT 1 |
| JACK VOLPATO | VICE-CHAIRMAN DISTRICT 4 |
| ALLEN SARTIN | COUNTY MANAGER |
| CAS TABOR | COUNTY ATTORNEY |
| DARLENE ROSPRIM | COUNTY CLERK |
| ROBIN VANNATTA | CHIEF DEPUTY CLERK |
| KAREN ROBINSON | ASSESSOR |
| TERRI RICHARDS | TREASURER |
| ERNEST MENDOZA | SHERIFF |
| KENT WALLER | CHIEF DEPUTY SHERIFF |
| FRANK WELDON | ROAD SUPERINTENDENT |
| CAROL HENNINGTON | I.T. DIRECTOR |
| D.P. LYONS | WARDEN |
| SHAWN FUNK | ASSISTANT WARDEN |
| KENNEY RAYROUX | HR DIRECTOR |
| TINA PARRISH | PURCHASING ADMINISTRATOR |
| JOEL ARNWINE | EMERGENCY MANAGER |
| ROBERT BRADER | FIRE DIRECTOR |
| GAY WEST | EXECUTIVE SECRETARY |
| LINDA MARTINEZ | INDIGENT ADMINISTRATOR |
| DANNY STAFFORD | MAINTENANCE SUPERVISOR |
| JIM GRANTNER | LANDFILL COMMITTEE |
| STEVE MCCROSKEY | CODE ENFORCEMENT |
| AUBREY HOBSON | ARTESIA CITY CLERK |
| STELLA DAVIS | CARLSBAD CURRENT ARGUS |
| JESSICA LEE | ARTESIA DAILY PRESS |

Absent:

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| CHARLENE WRIGHT | PROBATE JUDGE |
| LEWIS DERRICK | CHAIRMAN, DISTRICT 2 |

TIMED AGENDA:

8:30 A.M.

- 1. R-09-53: RESOLUTION TO CLARIFY THE USE & EXPENDITURE OF FIRE EXCISE TAX – ROBERT BRADER:** Sartin stated Brader had investigated the history of the tax and how the Board historically wanted staff to carry out the responsibilities of the tax. Brader collected an immense amount of data from historical records in order to present a clear picture of how the monies had been handled. That information was presented to the Fire Chiefs. Sartin directed Brader to draw up a resolution that would summarize all the different actions and motions that had taken place historically, in order to have a set of rules in one place for easy access. The fire chiefs were present and would present their perspective on how they would like the tax handled. Brader gave a brief history of the Fire Excise Tax. He explained the money was to be divided in a 40/60 split; 40% would go directly to the fire districts, 60% would go into a fund which could be accessed by the fire chiefs and the Commission for fire-related projects as they saw fit; which in effect created two different avenues to access the same money. The question arose if everything that was spent out of 60% monies had to be approved by the fire chiefs, or was spending strictly at the discretion of the Commission. Traditionally the money was fully under the control of the Commission, and if the fire chiefs wanted to use 60% money they would have to make application to the Commission. Brader stated the resolution reflected the intent of the Commission based on motions and actions by the Board. Hernandez asked for clarification on how the 60% money could be accessed by the chiefs. Brader explained a policy was drafted and approved by the Commission which provided an application to be filled out and submitted to a committee who would then make a recommendation to the Commission on the project. Brader stated there was a requirement for a reserve emergency fund of \$500K which was taken out of 60% money. If the emergency money was expended, the reserve fund would be replenished out of the 60% money. Originally the money was to be divided 60% to the Commission, 40% to the fire chiefs and 2% to office of the fire marshal to be included in the budget, which totaled 102% of the fund. The actual resolution stated the 2% would be taken off the top and the remaining money would be split 40/60 between the Commission and the fire chiefs. Lutman asked where the Commission had spent 60% money. Brader stated funds had been used to build radio towers, the communications infrastructure, to pay the consultant medical director and pharmacist, maintenance agreements for the radio towers, a rescue truck for the City of Carlsbad, a fire truck for the City of Artesia, money to build the fire stations in Queen and Sun Country, and a payment of \$50K a year was made to the Permian Basin Regional Training Center. Lutman asked if the money spent had been on fire related projects. Brader reported after review of the receipts and how the money had been spent, all projects were within the scope of the law. Brader stated the accounting of money did not make it easy to track the true expenditures of the 60% fund. A solution was being developed to generate one report which would give a clear accounting of the fund. Sartin stated Brader and the finance department had established funds for each of the unique revenue sources for each fire department. Most departments had 3 individual funds, in order to account for money spent out of the 40% fund, their state allocation and EMS funding. Volpato asked if the chiefs received the new and improved reports. Brader stated the intent was to provide the reports at every meeting, once they were deemed clear, accurate and understandable. Lara asked Brader to clarify the historical document referenced in the resolution.

Brader reported a variety of documents were referenced, such as Commission Minutes, Ballots, Resolutions, and Fire Board Minutes. Lara questioned the split for Loving and Hope. Brader explained Loving and Hope had volunteer fire districts, however they were not county districts. The chiefs voted to aid the departments by taking one share and splitting it between the two. Lara questioned what type of projects could be applied for out of 60% money. Brader stated the intent of the fund was to assist in big picture projects that could not be paid for out of their other monies. Lutman stated the Commission had never turned down a request for the use of 60% funds. Alvie Williams, Chief of Joel Fire Department, passed out a revision to the resolution in which the chiefs would have a review or approval of what was spent out of 60% money. Lutman questioned the wording in the proposal, and if it would give the chiefs the power to override the Commission. Sartin suggested the word “approval” be changed to “review” or “recommend”. Chiefs Burkham and Lane expressed the desire of the chiefs to review projects scheduled for 60% money. Jimmy Ray Funk, Chief of Queen Fire Department, stated there should be a clear accounting of how 60% funds were spent, and of how much money was in the fund. Lutman requested the figures for today’s meeting which were unavailable. Dave Looney, Chief of Otis Fire Department, requested a set date to have the figures presented to the chiefs. Sartin stated the figures would be presented at the next Fire Board Meeting in September. Lutman thanked the chiefs for their input and concerns. Lutman moved, seconded by Volpato to approve R-09-53 with the change of wording on 5b. and c. from approve to recommend. Hernandez suggested the 102% be clarified to exact numbers. Sartin suggested the numbers be changed to 2%, 39.2 % and 58.8% to reflect the true calculation of 100%. Lutman amended the motion to read as stated, Volpato amended the second. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. R-09-53 was recorded as Timed Agenda Exhibit 1.

2. **B-09-03 & B-09-04: NEW TIRES, NEW TUBES & TIRE REPAIRS FOR ROAD DIST. I & II – FRANK WELDON:** Weldon recommended the bids be awarded to Forrest Tire Company as sole bidder. Lutman moved, seconded by Lara to award bids B-09-03 and B-09-04 to Forrest Tire Company as sole bidder. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. The bid minutes and the invitation to bid were recorded as Timed Agenda Exhibit 2.

TRAILING AGENDA:

1. **APPROVE:**
 - a. **COUNTY COMMISSION MEETING MINUTES FOR JULY 21, 2009:** Lutman moved, seconded by Hernandez to approve the County Commission Minutes for July 21, 2009. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.
 - b. **EXPENDITURE APPROVAL LIST FOR PURCHASE ORDERS & INVOICES FOR AUGUST 4, 2009 CHECK RUN:** Hernandez moved, seconded by Volpato to approve the Expenditure Approval List for Purchase Orders & Invoices for August 4, 2009 Check Run. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. The Expenditure Approval List for Purchase Orders & Invoices for August 4, 2009 check run was recorded as Exhibit 1.b.
 - c. **MONTHLY FINANCIAL REPORT FOR JUNE, 2009:** Lutman moved, seconded by Lara to approve the Monthly Financial Report for June, 2009. Voting yes:

Hernandez, Lara, Lutman and Volpato. Passed 4-0. The monthly financial report for June, 2009 was recorded as Exhibit 1.c.

2. **APPLICATION FOR GRANTS – KENNEY RAYROUX:** Rayroux reported the requests would be for Recovery Act Money and would help with system improvements for the Malaga Water System and the Morningside infrastructure. Sartin cautioned staff when applying for recovery money to be aware of hidden requirements. Lara thanked Rayroux and Basabilvazo for their work on obtaining grants. Lutman moved, seconded by Lara to approve the request to apply for the grants provided there were no hidden requirements. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.
3. **FREEHOLDERS BOARD REQUEST – KENNEY RAYROUX:** Rayroux stated a request had been made to remove Kingsnake Road from county inventory. The only way that could happen was to impanel the Freeholders Board and bring a recommendation to the Commission for a decision. Rayroux asked for direction on the issue. Lutman stated if the road was vacated it would land lock an adjacent property. Hernandez moved, seconded by Lutman not to impanel the Freeholders Board to consider the vacation of Kingsnake Road. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.
4. **REPORT ON AIR SERVICE – KENNEY RAYROUX:** Rayroux reported the revenue guarantees to Roswell for the DFW flights had expired. He contacted Larry Fry, the CFO for the City of Roswell, and requested information from him regarding a new contract to extend the revenue guarantee to September. Rayroux stated there was no mechanism to extend the agreement. Fry did not respond, leaving Rayroux to assume the contract would not be needed. Aubrey Hobson reported the City of Artesia had extended the contract to September. Bill Armstrong, representing the Roswell-Chaves County Economic Development Corporation, reported the revenue guarantee for the DFW flight would not be needed. Armstrong reported American Eagle would have trial flights beginning August 25, 2009 thru January 3, 2010 to LAX airport. Armstrong stated the Commission would be asked to put up \$53,200 in support of the LAX flight. The revenue guarantee for the DFW flight was never needed; however Armstrong anticipated the LAX flight would call upon the guarantee. Armstrong stated a Community Neighbors meeting would be held in Carlsbad on August 13, 2009 to bring officials involved together to discuss the project. A celebration flight to LAX would be held on September 20, 2009, which would include breakfast at the del Rey Marina, a trip to the Getty Museum and a Dodger/Giant baseball game. The cost of the flight would be \$1800 per seat. The goal was to solicit money from the private sector to help meet revenue commitments. The Chairman of the Commission was invited to attend as a guest. Armstrong thanked the Commission for their support. Lutman thanked Armstrong for the report and urged everyone help generate support for future flights. Volpato thanked Armstrong for his efforts.
5. **CODE ENFORCEMENT UPDATE – STEVE MCCROSKEY:** McCroskey reported 243 cases had been entered into the new system, 52 of which had been closed. Approximately 160 cases still needed to be entered. McCroskey reviewed the status of cases in which citations had been issued, and reported the program had shown success. Lutman questioned how cases were prioritized. McCroskey stated the older cases were top priority; once the older cases were closed, then a set pattern would be developed and a timeline would be followed with new cases. Lutman suggested targeting an area of concern and helping the residents with roll-off dumpsters. McCroskey stated it was

difficult to find property to set the dumpsters on. He reported another issue was residents were complying with the ordinance by putting up privacy fences; which were not always an asset to the properties' appearance. Hernandez stated the ordinance was worded "appropriate fencing", and suggested the Commission revisit the ordinance to define the term.

6. **CREATION OF "TERM" TECHNICAL INVESTIGATION POSITION WITHIN THE SHERIFF'S OFFICE – SHERIFF MENDOZA:** Rayroux passed out a copy of the job description which included training for specialized equipment. He explained the position would be funded with grant money which would run out before the full two years was up. Waller stated additional funds would be applied for; however they were not guaranteed. Volpato suggested with the lag time to get someone hired, the funds may extend for the full term of the grant. Lara requested current staff be trained by the Technical Investigator on the equipment. Lutman moved, seconded by Lara to approve the creation of the Technical Investigation Position with the provision that when 75% of the funds were expended, the chairman of the Task Force report to the Commission on additional funding sources to extend the job. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.

7. **CONSENT TO ACCESS & CROSS LAND – ALLEN SARTIN:** Sartin stated a request from Southwest Public Service had been received to cross county property. Hernandez moved, seconded by Volpato to approve the request. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.

8. **AGREEMENTS:**

a. **A-09-100: FY09 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) AGREEMENT – JOEL ARNWINE:** Arnwine reported the request was for \$107K and \$71,104 was awarded. The \$107K had been awarded in the past for additional personnel, but since the Commission did not approve the position, the grant was reduced. Lutman moved, seconded by Hernandez to approve A-09-100. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. A-09-100 was recorded as Exhibit 8.a.

b. **A-09-101: FY05 HOMELAND SECURITY TRAINING GRANT AMENDMENT – JOEL ARNWINE:** Arnwine stated originally \$75K had been received for NIMS training and compliance. Due to several issues, the money was not expended as planned. A request was made to reallocate funds for the purchase of communication equipment. The request was approved by Homeland Security. Lutman moved, seconded by Lara to approve A-09-101. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. A-09-101 was recorded as Exhibit 8.b.

c. **A-09-103: MOU BETWEEN NATIONAL PARK SERVICE & EDDY COUNTY SHERIFF'S OFFICE – SHERIFF MENDOZA:** Mendoza explained the MOU was an ongoing agreement to provide assistance as needed in the National Parks. Lara moved, seconded by Hernandez to approve A-09-103. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0. A-09-103 was recorded as Exhibit 8.c.

9. **TRAVEL REQUESTS:**

- a. **DEBBIE PENALUNA TO ATTEND RECOVERY ACT: JAG FUNDING, TRAINING & INFORMATION IN SANTA FE, NM:**
- b. **DEEDRA MORSE TO ATTEND INTRO TO GIS: MAPPING YOUR COMMUNITY IN ALBUQUERQUE, NM:**
- c. **CHERYL WINFIELD TO ATTEND IAAO SCHOOL IN HOUSTON TX:**
- d. **ROBERT BELL, KAREN HULCE, DEBBIE LUGINBYHL, PHYLLIS LUNA, DOROTHY PARKER & CYNTHIA SHARIF TO ATTEND THE NM DWI COORDINATORS SYMPOSIUM IN T OR C, NM:**
- e. **SHERIFF DEPUTY TO ATTEND PROFESSIONAL STANDARDS COUNCIL MEETING IN SANTA FE, NM :**

Lutman moved, seconded by Lara to approve the travel requests. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.

10. **LEGISLATIVE ISSUES:** None.

11. **EMERGENCY BUSINESS:** None.

12. **PUBLIC COMMENTS/ANNOUNCEMENTS:** Waller reminded everyone about the National Night Out event scheduled tonight. He reported the Sheriff's Office had flooded during the recent rains. Waller also commended Arnwine for the exceptional job on obtaining grants for the county. Waller suggested the Commission consider an employee to focus on grants. Lutman stated the intent of the financial director position was to handle grant applications.

13. **COUNTY MANAGER COMMENTS/ANNOUNCEMENTS:** Sartin reported a letter of thanks had been received from CID for the Road Department's participation and support during the recent washouts.

He stated notification had been received from Homeland Security that a NIMS compliance audit would be conducted in September.

The Department of Cultural Affairs Historic Preservation Division sent a notice to inform the Commission of a movement to make Downtown Carlsbad a historic district. A public meeting would be held on August 14, 2009 to discuss the issue.

14. **ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS:** Mendoza reported the County Fair was a success.

15. **COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS:** Lutman reported the National Night Out event at the Courthouse was a success and thanked the Sheriff and organizers for their participation.

Lutman reported he was on the Double Eagle committee and they were meeting regularly on water issues.

Volpato wished Derrick a speedy recovery.

16. **PROJECT UPDATES:** Sartin stated the goal was to present quarterly updates to the Board. He reported several projects were experiencing funding shortages of which the

Commission would be asked to review for the next meeting. Sartin and Department Heads reviewed ongoing projects and fielded questions from the Commission. Sartin thanked the staff for their hard work putting together the information presented today. The project summaries were recorded as Exhibit 16.

17. **CLOSED MEETING:** At 11:25 a.m., Lutman moved, seconded by Hernandez to recess the meeting and to hold a closed meeting, in accordance with NMSA 10-15-1H (2), (7) and (8) to discuss personnel, pending litigation, and real property to reconvene at 1:00 p.m. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.
18. **RE-OPEN:** At 1:17 p.m., Volpato moved, seconded by Lara to reconvene in open session and to certify that only the items listed in the motion to close the meeting were discussed in accordance with NMSA 10-15-1H (2), (7) and (8). Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.

Sartin requested a motion to direct the County Manager not to submit a bid on Sunset Gardens in the upcoming auction. Lara moved, seconded by Lutman to direct the Manager as stated. Hernandez expressed concern about spending tax dollars on the acquisition of the property. The project held many unknown factors and he was not prepared to support the use of taxpayer money in that fashion. Hernandez stated the cost of improvements to the property and additional personnel would be too great a burden for the County. Lara concurred stating the Commission was elected to be good stewards of tax dollars. She stated something needed to be done with the property; however the County was not in a position to take the issue on. It would not be financially responsible to spend tax dollars on the unknown. The decision was not easy, however it was the job of Elected Officials to make the tough decisions. Lutman stated the County did not have enough experience to run a cemetery. The unknown costs associated with the acquisition would create a tax burden on county residents. Volpato stated he was in the minority and felt a great injustice was being done to the residents of Eddy County. Voting yes: Hernandez, Lara and Lutman. Voting no: Volpato. Passed 3-1.

19. **ADJOURN:** At 1:23 p.m., Lara moved, seconded by Lutman to adjourn the meeting. Voting yes: Hernandez, Lara, Lutman and Volpato. Passed 4-0.

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
August 18, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a regular meeting in Room 211 of the Eddy County Administration Complex on August 18, 2009 at 8:30 a.m. Derrick called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

Present:

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|------------------------|------------------------------------|
| LEWIS DERRICK | CHAIRMAN, DISTRICT 2 |
| GUY LUTMAN | COMMISSIONER DISTRICT 3 |
| ROXANNE LARA | COMMISSIONER DISTRICT 5 |
| TONY HERNANDEZ | COMMISSIONER DISTRICT 1 |
| JACK VOLPATO | VICE-CHAIRMAN DISTRICT 4 |
| ALLEN SARTIN | COUNTY MANAGER |
| CAS TABOR | COUNTY ATTORNEY |
| DARLENE ROSPRIM | COUNTY CLERK |
| ROBIN VANNATTA | CHIEF DEPUTY CLERK |
| KAREN ROBINSON | ASSESSOR |
| ERNEST MENDOZA | SHERIFF |
| MARIA MALDONADO-MERJIL | SHERIFF'S ADMINISTRATIVE ASSISTANT |
| KENNEY RAYROUX | HUMAN RESOURCES DIRECTOR |
| D.P. LYONS | WARDEN |
| TODD BANNISTER | DETENTION CENTER RN |
| LINDA P. MARTINEZ | INDIGENT ADMINISTRATOR |
| YOLANDA SING | INDIGENT ASSISTANT |
| CAROL HENNINGTON | INFORMATION SYSTEMS SUPERVISOR |
| SHARON DODSON | INFORMATION SYSTEMS ASSISTANT |
| YVONNE BASABILVAZO | COUNTY PLANNER |
| DAVID EDMONDSON | HIDTA |
| GAY WEST | ADMINISTRATIVE ASSISTANT |
| DEBBIE PENALUNA | FINANCE DIRECTOR |
| FRANK WELDON | ROAD SUPERINTENDENT |
| STEVE MCCROSKEY | CODE ENFORCEMENT |
| DANNY STAFFORD | M&O SUPERVISOR |
| JOEL ARNWINE | EMERGENCY MANAGER |
| ROBERT BRADER | FIRE DIRECTOR |
| GEORGIA GOAD | RURAL ADDRESSOR |
| CYNTHIA SHARIF | DWI COORDINATOR |
| AUBREY HOBSON | ARTESIA CITY CLERK |
| JIM GRANTNER | CARLSBAD CITY COUNCIL |
| STELLA DAVIS | CARLSBAD CURRENT ARGUS |
| JESSICA LEE | ARTESIA DAILY PRESS |

Absent:

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|-----------------|---------------|
| CHARLENE WRIGHT | PROBATE JUDGE |
| TERRI RICHARDS | TREASURER |

TIMED AGENDA:

8:30 A.M.

1. **RECOGNITION OF D.P. LYONS:** Sartin announced Lyons had tendered his resignation and would be leaving at the end of August. Derrick thanked Lyons for his hard work and presented him with a jacket in appreciation for his service to the County. Lutman thanked Lyons for an outstanding job at the detention center, and wished him well in retirement. Volpato thanked Lyons for the level of professionalism he brought to the jail. Lara commended Lyons for his involvement in the community, and stated it had been a pleasure working with him. Hernandez stated Lyons had been a great asset to the detention center, and thanked him for all his hard work.
2. **SERVICE AWARDS:** Derrick presented service awards to Armando Rascon and Richard Rodriguez for 20 years, Joe Moore and Jeffrey Zuniga for 15 years, and Radene Bradley for 5 years of service to Eddy County.
3. **PUBLIC HEARING:**
 - a. **OPEN:** Sartin opened the public hearing at 8:38 a.m. Sartin stated HB Potash was in a position to expand their operation and had requested industrial revenue bonds be issued. The County had passed an inducement resolution last fall, and now HB Potash was at the point where they desired to borrow the money necessary to start the expansion. The County would authorize the issuance of the bonds; however the County was not liable for the repayment of those bonds.
 - b. **STAFF OVERVIEW:** Steve McCutcheon, Manager of Intrepid Potash, introduced Hugh Harvey, Chief of Technology HB Potash, Lynn Casque, General Manager, Intrepid Potash and Martin Lynn, Corporate Council. McCutcheon stated the request today was to finalize the bond. Harvey stated Intrepid Potash had a large portion of un-mined oar which was ideal for a solution mine. The company had been successful with this type of mining, and Harvey could not think of one drawback to the project. Sartin introduced Mike Groshek and Scott Shafer, of Sherman and Howard, the County's bond attorneys. Groshek reported the firm had worked with the county on bond issues since 1979. The firm had been working on the documents with Tabor and the company's attorneys. The ordinance was complete and Groshek recommended the Board approve it along with a supplemental resolution. He emphasized there was no liability to the County.
 - c. **COMMISSIONERS' COMMENTS:** Volpato questioned the tax disadvantage for the County and the number of jobs the project would create. McCutcheon explained the county might experience a slight decrease in GRT. He anticipated 50 to 60 permanent jobs would be added as a result of the project. Volpato stated the revenue from the spin offs and construction associated with the project would make up for the decrease in GRT. Lara questioned the payments in lieu of taxes. Sartin stated the Carlsbad Schools and NMSU at Carlsbad would both receive payment in lieu of taxes. Russell Hardy, Campus President, NMSU-Carlsbad, thanked Intrepid Potash for including NMSU in the payment in lieu of taxes, and expressed the College's support of the bonds. Hernandez asked if the company would focus on hiring local people for the new positions created by the project. Casque explained all the permanent jobs would be local and about half of the contract construction. McCutcheon stated the preference when hiring was always local. Lutman thanked the company for the long term investment in the County.

d. **PUBLIC COMMENTS:** None.

e. **ADJOURN:** The public hearing was adjourned at 8:50 a.m.

4. **APPROVE/DISAPPROVE:**

a. **O-09-56: HB POTASH INDUSTRIAL REVENUE BONDS, BOND ORDINANCE:** Sartin passed out a revised copy of the ordinance, and pointed out page 6 Section 13 had been revised to include NMSU at Carlsbad for payment in lieu of taxes. Lutman moved, seconded by Volpato to approve O-09-56 as amended. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. O-09-56 was recorded in Ordinance Book 2 Page 78 on August 25, 2009.

b. **R-09-59: HB POTASH INDUSTRIAL REVENUE BONDS, SUPPLEMENTAL RESOLUTION:** Volpato moved, seconded by Hernandez to approve R-09-59. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-59 was recorded as Timed Agenda Exhibit 4.b.

5. **AUTHORIZATION FOR COMMISSION CHAIRMAN TO REVIEW, APPROVE AT BOND CLOSING:**

a. **A-09-109: HB POTASH INDUSTRIAL REVENUE BONDS, INDENTURE:** Hernandez moved, seconded by Lutman to approve A-09-109 in concept and designate the Chairman to sign upon closing. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-109 was recorded as Timed Agenda Exhibit 5.a.

b. **A-09-110: HB POTASH INDUSTRIAL REVENUE BONDS, LEASE AGREEMENT:** Volpato moved, seconded by Lutman to approve A-09-110 in concept and designate the Chairman to sign upon closing. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-110 was recorded as Timed Agenda Exhibit 5.b.

c. **A-09-111: HB POTASH INDUSTRIAL REVENUE BONDS, BOND PURCHASE AGREEMENT:** Lutman moved, seconded by Volpato to approve A-09-111 in concept and designate the Chairman to sign upon closing. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-111 was recorded as Timed Agenda Exhibit 5.c.

TRAILING AGENDA:

1. & 2. **RECESS EDDY COUNTY COMMISSION MEETING & CONVENE AS INDIGENT HOSPITAL CLAIMS BOARD:** At 8:57 a.m., Hernandez moved, seconded by Lutman to recess the regular meeting and convene as the Indigent Hospital Claims Board. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

3. **INDIGENT HOSPITAL CLAIMS BOARD:** Indigent Board Meeting.

4. **RECONVENE EDDY COUNTY COMMISSION MEETING:** At 9:04 a.m., Volpato moved, seconded by Lara to adjourn the Indigent Hospital Claims Board and reconvene the regular meeting. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.
5. **APPROVE:**
 - a. **COMMISSION MEETING MINUTES FOR AUGUST 4, 2009:** Volpato moved, seconded by Lutman to approve the County Commission Minutes for August 4, 2009. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.
 - b. **EXPENDITURE APPROVAL LIST FOR PURCHASE ORDERS & INVOICES FOR AUGUST 18, 2009 CHECK RUN:** Volpato moved, seconded by Derrick to approve the Expenditure Approval List for Purchase Orders & Invoices for August 18, 2009 Check Run. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. The Expenditure Approval List for Purchase Orders & Invoices for August 18, 2009 Check Run was recorded as Exhibit 5.b.
 - c. **PURCHASE CARD EXPENDITURE APPROVAL LIST FOR JULY, 2009:** Hernandez moved, seconded by Derrick to approve the Purchase Card Expenditure Approval List for July, 2009. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. The Purchase Card Expenditure List was recorded as Exhibit 5.c.
6. **APPROVE/DISAPPROVE: EVIDENCE/SURVEILLANCE TECHNICIAN (NEW POSITION) – DAVID EDMONDSON:** Edmondson stated the position was included in the recovery grant the Commission had recently approved. The technician would be responsible for evidence and maintenance on technical equipment for the task force. Lara stated the position was grant funded and suggested cross-training with other employees so the work would continue if the funding ran out. Edmondson explained it took 3 years to become a master instructor. Hernandez questioned if the position was exempt and if the employee would be paid overtime. Edmondson stated the grant provided for 100 hours of overtime. Rayroux stated the position was exempt, and the job specifications were in progress. Lutman requested a report when 75% of the funding was expended. Edmondson reported the grant would be available next year, and the position in question would eventually roll over into the JAG grant. He explained the task force had \$250K worth of technical equipment that had not been used. The new position would enable the task force to utilize these assets to the benefit of Eddy County. Lutman moved, seconded by Volpato to approve the new position with the grade to be determined by the HR department and HIDTA, and a report to the board when 75% of the funds were expended. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.
7. **APPROVE/DISAPPROVE HIDTA COMMANDER CLASSIFICATION – KENNEY RAYROUX:** Rayroux stated after discussions with the Chief Deputy Sheriff and review of supervisory job descriptions within the department; he recommended the HIDTA Commander be classified equal to a Captain in the Sheriff's Department. The classification would be contingent upon grant funding. The request also included the increase in pay be retroactive to the beginning of the fiscal year. Hernandez moved, seconded by Lutman to approve classification of the HIDTA Commander as a Captain. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

8. **APPEAL, CODE ENFORCEMENT RESOLUTION R-09-42, EAST WOOD AVE. – ALLEN SARTIN:** John Mendez, owner of the property, requested 30 days to complete the project. Mendez reported the back acre was completely clean and fence posts had been set. He was in the process of buying material to finish the fence and anticipated the project would be completed within 30 days. McCroskey reported the owner was working very hard to resolve the issue and had made significant progress. Lutman asked for a history of the case. McCroskey stated the case had been open since February, 2008. Lutman stated the ordinance must be followed and supported zero tolerance for offenders. Lara pointed out Mendez had volunteered to postpone work out of town until the property was finished. Volpato stated he had been by the property and the owner had made progress. Lutman moved to deny the appeal, motion died for lack of a second. Volpato moved, seconded by Hernandez to grant a 30 day extension with the understanding that after 30 days a citation would be issued. Lara stated the goal was to get the property cleaned up and thanked Mendez for his efforts. Lutman thanked Mendez for attending today’s meeting. Voting yes: Volpato, Lara, Derrick and Hernandez. Voting no: Lutman. Passed 4-1.
9. **APPROVAL OF GOMEZ TRACTS 2 – PHASE I – YVONNE BASABILVAZO:** Basabilvazo reported the Planning and Zoning Committee had recommended the Board approve the subdivision. The plan was to develop the first three lots and phase in additional lots as money became available. Basabilvazo stated the utilities were in place and the Otis Water Coop had approved 3 water meters. She reported all the state and local subdivision requirements had been met. Brader reported a fire hydrant had been installed; however, more fire hydrants would be needed as the subdivision developed. Tabor stated the title of the plat gave the impression that all six lots were available for purchase. Basabilvazo suggested adding Phase I Lots 1, 2 and 3 to the title. Volpato moved, seconded by Lutman to approve phase one of the plat with the amended wording as stated. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.
10. **08/09 AUDIT ENGAGEMENT LETTER – DEBBIE PENALUNA:** Penaluna stated the letter was an outline of services the auditor would provide. The cost of the audit was less than the amount budgeted. Sartin stated the letter was standard, and a meeting would be held with the auditor before work started. Lara moved, seconded by Hernandez to approve the Audit Engagement Letter. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.
11. **RESOLUTIONS:**
- a. **R-09-54: VACATION OF PLATTED ALLEYWAYS, MALAGA SECOND AMENDED II BLOCK 32 – GEORGIA GOAD:** Goad stated the Planning and Zoning Committee recommended approval of the request. Goad explained the owner would follow up with a plat to erase all alleyways and lot lines from the property. Hernandez requested a list of owners adjacent to the alley. Goad reported the owners had been contacted and no objections were received. Hernandez moved, seconded by Derrick to approve R-09-54. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-54 was recorded as Exhibit 11.a.
- b. **R-09-55: VACATION OF PLATTED ALLEYWAYS, MALAGA SECOND AMENDED II, BLOCKS 10, 14, 15, 23, 24, 30, 31, 38, 64, 65, 82, 83, & 84 – GEORGIA GOAD:** Goad reported the request to vacate had been received from Linda Ahrens. The intent was to remove the alleyways in order to make the properties easier to develop. The

owners had been contacted and no objections had been filed. Derrick moved, seconded by Volpato to approve R-09-55. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-55 was recorded as Exhibit 11.b.

c. **R-09-57: SECURE RURAL SCHOOLS ACT, ALLOCATION SELECTION – ALLEN SARTIN:** Sartin reviewed the funding structure and recommended the money be allocated as stated in the resolution. Lutman moved, seconded by Lara to approve R-09-57. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-57 was recorded as Exhibit 11.c.

d. **R-09-58: ADOPTION OF NEW ADULT DETENTION CENTER POLICY & PROCEDURE MANUAL – WARDEN D.P. LYONS:** Lyons explained the new manual was based on 375 ACA standards and NM Law. He recommended it replace the old manual. Tabor stated the manual was comprehensive and well done. Volpato moved, seconded by Lutman to approve R-09-58. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-58 was recorded as Exhibit 11.d.

e. **R-09-60: CODE ENFORCEMENT – 1632 MUSCATEL AVENUE – STEVE MCCROSKEY:** McCroskey stated the Commission had passed a resolution concerning the property; however previous code enforcement had not completed the process. If the Commission passed R-09-60 the old resolution would need to be rescinded. McCroskey reported magistrate court recommended the owner be cited, and if there was no response they would issue a bench warrant for the owner. The house on the property had asbestos siding; which would be costly to clean up. Volpato stated the county had been given an estimate to remove the asbestos which was well over \$10K. He did not feel county money should be spent to clean the property. Lutman suggested the County clean the property and foreclose on the lien if the owner would not reimburse the cost. McCroskey stated the property was owned by Joanna Page; however her ex-husband was the responsible party and had been contacted. Hernandez stated the owner of record and all parties involved should be served with the resolution and cited. Volpato moved, seconded by Derrick to rescind all previous resolutions, approve R-09-60, and authorize the Code Enforcement Officer to cite all individuals involved with the property. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-60 was recorded as Exhibit 11.e.

f. **R-09-61: CODE ENFORCEMENT – 1909 N. FREEMAN – STEVE MCCROSKEY:** McCroskey stated the property had been inspected and the case closed in 2008. A follow up inspection revealed more junk cars on the property. The owners had been notified and had not responded. Lutman moved, seconded by Hernandez to approve R-09-61. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-61 was recorded as Exhibit 11.f.

g. **R-09-62: CODE ENFORCEMENT – 1921 HOWARD ROAD – STEVE MCCROSKEY:** McCroskey stated the case had been open since March of 2009. The certified mail had been picked up but the owner had not responded. Volpato moved, seconded by Hernandez to approve R-09-62. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-62 was recorded as Exhibit 11.g.

h. **R-09-63: CODE ENFORCEMENT – 1214 E. ORCHARD LANE – STEVE MCCROSKEY:** McCroskey reported the owner was in a nursing home and the party responsible for the property refused to cooperate. Volpato moved, seconded by Lutman to

rescind R-08-56 and approve R-09-63. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. R-09-63 was recorded as Exhibit 11.h.

12. AGREEMENTS:

a. A-09-25: EMERGENCY MANAGEMENT JPA – JOEL ARNWINE: Arnwine stated all of the participating agencies had signed the agreement. He reported the financial contributions had been changed from a flat rate to a percentage. Lutman moved, seconded by Hernandez to approve A-09-25. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-25 was recorded as Exhibit 12.a.

b. A-09-102: AGREEMENT WITH JUSTIFACTS FOR BACKGROUND CHECKS – KENNEY RAYROUX: Rayroux stated background checks tended to bog down the hiring process. Tabor had reviewed the agreement and revised it to the satisfaction of the County. Rayroux stated the approximate cost would be around \$50 an application to obtain the needed information, and would be taken out of the professional services line item. Lutman moved, seconded by Volpato to approve A-09-102 up to \$3K and report to the Board on the success of the service. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-102 was recorded as Exhibit 12.b.

c. A-09-104: CONTRACT FOR PHARMACEUTICAL SERVICES WITH ADVANCED MEDICAL MANAGEMENT SYSTEMS FOR EDDY COUNTY DETENTION CENTER – WARDEN LYONS: Volpato recused himself from the vote and discussion. Lutman moved, seconded by Derrick to approve A-09-104. Voting yes: Lara, Lutman, Derrick and Hernandez. Volpato abstained. Passed 4-0. A-09-104 was recorded as Exhibit 12.c.

d. A-09-107: COBRA TELE LINK SERVICE AGREEMENT – WARDEN LYONS: Lyons stated the new system would allow inmates to purchase PIN numbers to make calls to the cell phones of family members. The system would generate \$1,081 in additional revenue every month. Lutman moved, seconded by Lara to approve A-09-107. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-107 was recorded as Exhibit 12.d.

e. A-09-105: PSA WITH PRESBYTERIAN MEDICAL SERVICES FOR HEALTHCARE SERVICES – LINDA MARTINEZ: Martinez reported A-09-105 was a renewal of the current agreement. Tabor stated the amount PMS was funded at this year was added to the agreement. Wording which allowed the contract to be renewed in 1 year increments up to four years was also included. Sartin stated he had changed page 5 item b to stipulate PMS would provide the certificate of liability insurance to the manager's office. Lara moved, seconded by Volpato to approve A-09-105. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-105 was recorded as Exhibit 12.e.

f. A-09-106: CITY/COUNTY LANDFILL MOU – ALLEN R. SARTIN: Sartin stated the agreement had been revised to include convenience stations and clean-up language regarding third party vendors. Volpato moved, seconded by Derrick to approve A-09-106. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-106 was recorded as Exhibit 12.f.

g. A-09-108: TRAFFIC SAFETY GRANT AGREEMENT – CYNTHIA SHARIF: Sharif stated the grant had been approved by Traffic Safety in the amount of \$14,595.29.

Funding was up this year due to aggressive law enforcement. Lutman moved, seconded by Volpato to approve A-09-108. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0. A-09-108 was recorded as Exhibit 12.g.

TRAVEL REQUEST CONSENT AGENDA:

PRIOR:

a. **KAREN ROBINSON ATTENDED PROPERTY TAX EDUCATION & STUDY COMMITTEE MEETING IN ABQ. NM:**

b. **ONE SHERIFF DEPUTY ATTENDED DOMESTIC VIOLENCE TASK FORCE MEETING IN ABQ. NM:**

c. **ONE SHERIFF INVESTIGATOR ATTENDED 2009 NM NARCOTICS OFFICERS ASSOCIATION CONFERENCE IN ABQ. NM:**

d. **ONE SHERIFF ADMN. LT. ATTENDED NM TRAFFIC SAFETY SYMPOSIUM CONFERENCE IN ABQ. NM:**

FUTURE:

e. **STEVE MCCROSKEY TO ATTEND ARCGIS DESKTOP 1: GETTING STARTED WITH GIS IN ABQ. NM:**

f. **MICHAEL INGRAM, KEITH INGRAM, ROGER MAXWELL & FRANK FRIZELL TO ATTEND DEALING WITH DIFFICULT PEOPLE TRAINING IN EL PASO, TX:**

g. **KAREN ROBINSON TO ATTEND NMAC PROPERTY TAX EDUCATION & STUDY COMMITTEE IN ABQ. NM:**

h. **GEORGIA GOAD TO ATTEND CONTINUING EDUCATION CREDITS FOR FLOODPLAIN MANAGER CERTIFICATION IN PINETOP, AZ:**

i. **ONE (1) SHERIFF ADMN. LT. TO ATTEND DOMESTIC VIOLENCE TASK FORCE MEETING IN ABQ. NM:**

j. **ONE (1) RECORDS SUPERVISOR & ONE SIU SECRETARY TO ATTEND NCIC/NMLETS UPDATE & INQUIRY TRAINING IN LAS CRUCES, NM:**

k. **THREE (3) ECSO RECORDS CLERKS TO ATTEND NCIC INQUIRY TRAINING IN LAS CRUCES, NM:**

l. **ALLEN SARTIN & KENNEY RAYROUX TO ATTEND FEDERAL COURT IN LAS CRUCES, NM:**

m. **GREG BLAND TO ATTEND MVD MANAGER'S CONFERENCE IN ABQ. NM:**

Lutman suggested NMAC be approached about hosting some of the out of state training which would benefit employees across the state, and save the counties money.

Volpato moved, seconded by Hernandez to approve all travel requests listed. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

- 13. EMERGENCY BUSINESS:** Sartin stated as a result of a court order, staff had been directed to clean up overgrown vegetation at Sunset Gardens Cemetery. The initial estimate was \$11,600 and the City would pay for half of the cost for cleanup.

- 14. PUBLIC COMMENTS/ANNOUNCEMENTS:** None.

- 15. COUNTY MANAGER COMMENTS/ANNOUNCEMENTS:** Sartin reported Jim Grantner had resigned from the Planning and Zoning and the Solid Waste Committees. Grantner had been appointed to the City Council. Derrick thanked Grantner for his service to the County.

Sartin reminded the Board of the joint meeting with the City on Wednesday, August 19, 2009, at 6:00 p.m., at the San Jose Center concerning Sunset Gardens Cemetery. Sartin reported he had visited the cemetery and cleanup was going well.

Sartin reported the practice of “tax lightning” had been ruled illegal by the District Court in Albuquerque. The law limited an increase of property tax to 3% a year unless you sold the property. The value would then be raised to market value for the new owner. The legislature was looking at the law to see what was needed to make the practice legal.

- 16. ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS:** None.

- 17. COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS:** Volpato welcomed Derrick back.

Lutman thanked Weldon, the Road Department, and the trustees, for their efforts at the cemetery. He reported the legislature would hold an emergency meeting concerning the budget deficit.

Lara thanked Sartin for facilitating the meeting between the County and the City Council. Lutman reported he would not be able to attend the meeting.

- 18. PROJECT FUNDING REVIEW – ALLEN R. SARTIN:** Sartin reviewed the following projects, and made recommendations as follows.

JAIL EXPANSION: Sartin reported four options had been presented for the jail expansion. He recommended option one which would cost \$7,300,000 and would include upgrades to electronic controls, a new building for juveniles, and a large upgrade to expand the women’s facility. The Board had budgeted \$4 million dollars for the project.

REMODEL OF THE ADMINISTRATION BUILDING: Sartin increased the project funding to \$850K, and recommended option 2.

REMODEL ARTESIA SATELLITE BUILDING: Sartin proposed the project be deferred and the funding re-allocated to other projects. The most viable option was to tear down the Sheriff's office and construct the site from scratch. Once the Sheriff had moved to the Public Safety Complex the project would be considered again.

PUBLIC SAFETY PROJECT IN ARTESIA: Sartin stated a discussion with Artesia to determine the actual cost to the County needed to be held. He recommended decreasing the fund by \$200K.

DEAD COW ROAD: Sartin recommended the project be cancelled and the funding returned to the State.

SUNSET GARDENS: Based on the actions of the Board, the state funding was eliminated from the budget. The Board would determine what to do with the \$200K set aside for the project at the joint meeting tomorrow night.

DRUG REHAB CENTER: Sartin recommended the funding be eliminated for the project. The available funding would replace existing Carlsbad Mental Health facilities and would not add any new programs or change the services provided. Volpato stated the intent was to build the facility and add additional phases as funding became available. Sartin stated with the allocations as recommended, the county only had around \$3 million in surplus funds. He recommended the extra money be left alone until revenues increased. Lara stated the project should not be eliminated and the Board needed to discuss options. The community needed the facility and a lot of hard work had been done to get the project started. Sartin stated the project funding was only a recommendation and the Board should review and discuss all projects in question. Volpato suggested the County fund the project up to the architect's estimate and get phase one off the ground. Sartin stated in order to fund the Rehab Center the money would have to be taken from another project. Noel Clark, Carlsbad Mental Health, expressed concern over how the project was being presented. Mental Health had raised \$1.8 million dollars in response to a community survey which rated a local rehab as the number one need. Clark stated Carlsbad Mental Health was committed to the project and would hate to see the County back out of the partnership to provide this service to area residents. Penaluna pointed out that costs had increased and revenues had decreased since the project started and expressed concern over the County's ability to fund the project through future expansion. Lutman thanked Clark for his input, and stated the rehab was initially started to alleviate jail overcrowding. Lara questioned if Eddy County residents would be given priority admission to the center. Kirsten Carlson, Carlsbad Mental Health, stated the admissions policy would be changed to give county residents priority behind federal requirements that pregnant women and intravenous drug users be treated first. Volpato suggested funds from the Loop Road be used, and when the project was ready to progress, replenish that line item. Derrick suggested postponing the project funding discussion until after closed session. Clark thanked the Commission for the opportunity to speak candidly.

22. **CLOSED MEETING:** At 1:10 p.m., Derrick moved, seconded by Volpato to recess the meeting and to hold closed meeting, in accordance with NMSA 10-15-1H (2), (7) and (8) to discuss personnel, pending litigation, and real property to reconvene at 3:00 p.m. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

23. **RE-OPEN:** At 4:28 p.m., Derrick moved, seconded by Volpato to reconvene in open session and to certify that only the items listed in the motion to close the meeting were discussed in accordance with NMSA 10-15-1H (2), (7) and (8). Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

Hernandez moved, seconded by Lutman to direct Sartin and Rayroux to attend a legal settlement in Las Cruces and proceed as directed in closed session. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

Sartin asked for a motion to direct the manager to pay the bill of \$20K for the Lea Land purchase and to make a budget supplemental for the next quarterly adjustment. Volpato moved, seconded by Lutman to direct the manager as stated. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

Sartin stated Adelante had requested the county be fiscal agent on a project they were working on. Lutman moved, seconded by Lara to refuse the request. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

Volpato moved, seconded by Lutman to direct staff to take action to transfer legislative funds for Sunset Gardens from the County to the City. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

PROJECT FUNDING: Sartin stated the Board had decided to fund option #3 for the Rehab Center. Legislative funds plus \$1,731,000 of county money would be used. The fund for the Loop Road would be reduced by a similar amount. The \$193K would remain in the Sunset Gardens line item. Sartin would update the project fund worksheet and get the Board a revised copy.

20. **UPDATING 2011 – 2015 ICIP – YVONNE BASABILVAZO:** Basabilvazo reviewed the ICIP List and fielded questions concerning projects. The Board decided on the top five projects as follows:

1. Loop Road,
2. Jail Expansion,
3. Morningside Infrastructure,
4. Legacy Rehab,
5. Artesia Shooting Range.

21. **LEGISLATIVE FUNDING SURVEY – KENNEY RAYROUX:** Rayroux stated the survey was a tool for the state to evaluate project funding. The survey was set up to determine viable projects so the State could re-allocate money. Basabilvazo reviewed the projects and fielded questions from the Board. It was decided the funding for fencing on Eddy County Road 604 would be returned; all other projects were deemed viable.

Lutman questioned where the County stood on obtaining land for the Rehab Center from the City. Rayroux reported the paper work had been sent to the City six weeks ago. Lara requested follow up on the project.

24. **ADJOURN:** At 4:50 p.m. Volpato moved, seconded by Lara to adjourn the meeting. Voting yes: Volpato, Lara, Lutman, Derrick and Hernandez. Passed 5-0.

**EDDY COUNTY BOARD OF COMMISSIONERS AND CARLSBAD CITY COUNCIL
MINUTES OF A SPECIAL JOINT MEETING
August 19, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners and the Carlsbad City Council held a special meeting at the San Jose Senior Center, 2812 San Jose Blvd, on August 19, 2009 at 5:00 p.m.

Present:

| | |
|-----------------|------------------------------------|
| BOB FORREST | MAYOR |
| LEWIS DERRICK | COUNTY COMMISSION CHAIRMAN DIST. 2 |
| TONY HERNANDEZ | COUNTY COMMISSIONER DIST. 1 |
| JACK VOLPATO | COUNTY COMMISSIONER DIST. 4 |
| ROXANNE LARA | COUNTY COMMISSIONER DIST. 5 |
| GUY LUTMAN | COUNTY COMMISSIONER DIST. 3 |
| BRAD DAY | CITY COUNCIL WARD 4 |
| NED ELKINS | CITY COUNCIL WARD 3 |
| PAUL AGUILAR | CITY COUNCIL WARD 1 |
| WES CARTER | CITY COUNCIL WARD 3 |
| JEFF DIAMOND | CITY COUNCIL WARD 2 |
| JIM GRANTNER | CITY COUNCIL WARD 4 |
| SANDY NUNLEY | CITY COUNCIL WARD 2 |
| NICK SALCIDO | CITY COUNCIL WARD 1 |
| DARLENE ROSPRIM | COUNTY CLERK |
| ROBIN VANNATTA | CHIEF DEPUTY CLERK |
| ALLEN SARTIN | COUNTY MANAGER |
| HARRY BURGESS | CITY MANAGER |
| CAS TABOR | COUNTY ATTORNEY |
| EILEEN RIORDAN | CITY ATTORNEY |
| AMANDA ASBURY | CITY CLERK |
| JOHN HEATON | STATE REPRESENTATIVE DIST. 55 |
| STELLA DAVIS | CARLSBAD CURRENT ARGUS |
| JESSICA LEE | ARTESIA DAILY PRESS |

1. **OPEN MEETING:** At 5:00 p.m. Derrick called the Special Joint Meeting of the County Commission and the Carlsbad City Council to order.

2. **CLOSED SESSION:** At 5:01 p.m. Forrest moved, seconded by Lara to recess the meeting and to hold a closed meeting, in accordance with NMSA 10-15-1H acquisition of Sunset Gardens Cemetery to reconvene at 6:00 p.m. Voting yes: All Council Members and Commissioners present. Motion passed.
 - a. **DISCUSS ACQUISITION & FUNDING FOR SUNSET GARDENS PROPERTY:**

3. **OPEN SESSION:** At 6:30 p.m. Derrick moved, to reconvene in open session and to certify that only the items listed in the motion to close the meeting were discussed in accordance with NMSA 10-15-1H. Voting yes: All Council Members and Commissioners present. Motion passed.

a. PUBLIC ANNOUNCEMENTS: Mayor Forrest apologized for the length of the closed session. Forrest reported the County had agreed to transfer the legislative funds over to the City for purchase of the cemetery. Forrest recognized Representative John Heaton, and thanked him for helping with the project. The details concerning operational costs and the funds the County had set aside for capital improvements were under discussion, and an agreement would be ironed out in the next couple of weeks. The goal was for the City to own the property and the County would be asked to split the operational costs, and contribute funds set aside for the project. Forrest reported the Judge had informed him there would be about 60-90 days to resolve the matter. Forrest stated after the purchase was made the former owner had 9 months to come up with the money to get the property back. Forrest thanked everyone for their work and cooperation. He assured area citizens that everything possible would be done to bring the cemetery up to standards.

Volpato thanked everyone for their interest and attendance at today's meeting. He also thanked Mark Walterscheid for his cleanup efforts on the property, and the City for a willingness to work together to get the matter resolved. Volpato stated the basic frame work was in place, and details would be worked out in coming weeks. He thanked Representative Heaton for all his help and hard work on the project.

Diamond thanked Mayor Forrest, former Commissioner Whitlock, and Sartin for their work on the project. Diamond stated the City would not be taking over Crouch's business and urged residents to check to make sure their deeds were in order.

Lara thanked both entities for their joint efforts on the project. She encouraged residents to continue to support the efforts of local government and to keep conversations open.

Heaton thanked the City Council for taking the lead on the project. He stated people have a moral obligation to those who came before us, to honor and remember them. He commended local governments for their joint efforts. Heaton reported the State was facing a huge deficit, and it was important that the funds were transferred and expended as soon as possible to avoid losing the money. Heaton thanked the community and leaders for their interest in the project.

b. DISCUSS FUTURE MEETING SCHEDULE: Derrick stated committees would be formed and report back to their respective entities. Future meetings would be scheduled and public notice given.

c. GIVE DIRECTION TO STAFF: Derrick stated staff had been instructed.

4. ADJOURN MEETING: At 6:50 p.m. Diamond moved, to close the meeting. Voting yes: All Council Members and Commissioners present. Motion passed.